

BASIS FOR THE AMENDMENT

Claims 13-14 have been canceled.

The specification and Claim 28 have been amended as supported, for example, by Claim 8 of the revised translation (marked-up copy) of the Japanese priority document, JP 2002-365782, filed June 27, 2008; at page 8, lines 16-30 of the revised translation (marked-up copy), at the paragraph bridging pages 61 and 62 of the original specification and by Figure 3 of the original specification.

No new matter is believed to have been added by entry of this amendment. Entry and favorable reconsideration are respectfully requested.

Upon entry of this amendment Claims 1, 8, 10, 21-23 and 26-28 will now be active in this application.

REMARKS

Applicants wish to thank Examiner Dote for the helpful discussion with Applicants Representative on November 25, 2008. The claims as amended were discussed.

Applicants respectfully request reconsideration of the application, as amended, in view of the following remarks.

The rejections of Claims 13 and 14 are moot in view of the cancellation of Claims 13 and 14.

The rejection of Claims 23 and 27 under 35 USC 112, 2nd paragraph, is obviated by the amendment of these claims.

The objection of Claims 8, 10 and 22 is obviated by the amendment of these claims.

Claim 28 has been amended to be consistent with the priority application. This case qualifies for the exemption under 102(e)/103(c) because Yagi, as well as Emoto and the present invention were commonly owned by Ricoh Company Limited at the time the present invention was made. The 102(a) dates of Yagi and Emoto (July 24, 2003 and August 14, 2003) are overcome by filing the Certified English Translation of the Japanese priority document JP 2002-365782, filed December 17, 2002. See also the revised English translation and Rule 132 Declaration filed June 28, 2008. Applicants have thereby perfected their claim to priority.

Therefore, the rejections of the claims over Yagi and Emoto are believed to be unsustainable and should be withdrawn.

The obviousness type double patenting rejection over US 7,396,630 is obviated by the Terminal Disclaimer filed herewith.

Regarding the **provisional** double patenting rejection over Serial No. 11/405,165, the MPEP instructs the Examiner to withdraw the provisional rejection if it is the only issue remaining in one case and convert the provisional rejection in the other application to a double patenting rejection. MPEP 822.01. Applicants note that the present case (Serial No. 10/670,320) is filed earlier than Serial No. 11/405,165 (which has not yet issued as a patent).

See also MPEP 804.B.1 which states:

“Nonstatutory Double Patenting Rejections

If a "provisional" nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer. If the ODP rejection is the only rejection remaining in the later-filed application, while the earlier-filed application is rejectable on other grounds, a terminal disclaimer must be required in the later-filed application before the rejection can be withdrawn.

If "provisional" ODP rejections in two applications are the only rejections remaining in those applications, the examiner should withdraw the ODP rejection in the earlier filed application thereby permitting that application to issue without need of a terminal disclaimer. A terminal disclaimer must be required in the later-filed application before the ODP rejection can be withdrawn and the application permitted to issue. If both applications are filed on the same day, the examiner should determine which application claims the base invention and which application claims the improvement (added limitations). The ODP rejection in the base application can be withdrawn without a terminal disclaimer, while the ODP rejection in the improvement application cannot be withdrawn without a terminal disclaimer.”

Thus, the provisional double patenting rejection should be withdrawn in this case.

This application presents allowable subject matter, and the Examiner is kindly requested to pass it to issue. Should the Examiner have any questions regarding the claims or

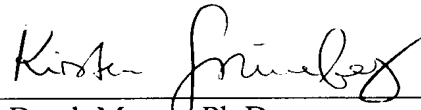
Application No.: 10/670,320

In reply to Office Action mailed September 11, 2008

otherwise wish to discuss this case, he is kindly invited to contact Applicants' below-signed representative, who would be happy to provide any assistance deemed necessary in speeding this application to allowance.

Respectfully submitted,

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